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Fresh Concerns Arise Over Religious Liberty in the OSCE

The Commission on Security and Cooperation in Europe recently received reports from various fronts where governments are contemplating restrictive legislation on religion, or have undertaken actions that violate the Helsinki Accords.

On May 13, Armenia's Parliament adopted a bill on its first reading amending the law on freedom of conscience and religious organizations. The amendment prohibits registration of a religious community if there are less than 100 adherents and restricts media reports on religious subjects. The Helsinki Accords embody the principles of free exercise of religious beliefs, free speech, and non-interference by

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(l to r) Chairman D'Amato discusses NATO enlargement with Poland's Ambassador Kozminski

Chairman D'Amato, Co-Chairman Smith Call for Larger NATO; Commission Releases Report on Human Rights and the Process of NATO Enlargement

Announcing public release of the report, Commission Chairman Sen. Alfonse D'Amato (R-C-NY) called the expansion of NATO, "the most important foreign policy event for the United States since the fall of the Soviet Empire. Security, freedom, democracy and prosperity for the roughly 200 million people living between Western Europe and Russia are at stake," he said. "I strongly believe that NATO enlargement serves America's interests in maintaining peace and stability in Europe. We should invite all candidate nations that meet the standards to join NATO. I believe Estonia, Latvia, Lithuania, Poland, Hungary, the Czech Republic, Slovenia, and Romania should be given invitations to negotiate for inclusion in NATO at the Madrid Summit."

Co-Chairman Rep. Christopher H. Smith (R-NJ) said, "The Madrid Summit must also put in place a genuine process to ensure that all emerging democracies desiring NATO membership will be considered for membership as soon as they meet the established criteria. Last week the House approved legislation which I helped draft underscoring the importance of having such a process at the outset. Platitudes by the Clinton Administra-

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The Commission on Security and Cooperation in Europe, by law, monitors and encourages progress in implementing the provisions of the Helsinki Accords. The Commission, created in 1976, is made up of nine Senators, nine Representatives, and one official each from the Departments of State, Defense, and Commerce. For more information, please call (202) 225-1901.

Slovak Government Criticized at OSCE Permanent Council for Obstructing Referendum

On May 22 and 23, the Slovak Ministry of Interior effectively prevented a referendum from being held on questions relating to NATO expansion and the direct election of the presidency. The Ministry's manipulation of the referendum process stands as one of the Slovak Government's most open challenges to the rule of law and the authority of the Slovak Constitutional Court. Following the failed referendum, Foreign Minister Pavel Hamzik resigned on May 26. The United States criticized Slovakia's actions in Washington and at the OSCE Permanent Council meeting in Vienna on May 29.

Background on Referendum

In February, the Slovak parliament approved holding a referendum that would ask three questions regarding NATO: 1) Do you agree with Slovak membership in NATO? 2) Do you agree with the stationing of nuclear weapons on Slovak territory? 3) Do you agree with the establishment of (foreign) military bases on Slovak territory?

Although the referendum on NATO was called by the government, and although Prime Minister Meciar's party ostensibly supports Slovakia's accession to NATO, the addition of questions on nuclear weapons and foreign bases led many to conclude that Meciar's real intent in shaping the referendum was to elicit a "no" vote. If Meciar could argue that the Slovak people were not interested in joining NATO, then he could argue that the human rights and democratization reforms required to get into NATO had also been deemed unnecessary by the voters. Moreover, the referendum created an opportunity for Slovakia to reject NATO, before NATO rejected Slovakia.

This plan, however, began to unravel even before the parliament took a formal decision to hold the NATO referendum.

In December, opposition parties had sought legislation to provide for the direct election of the presidency. According to the Slovak Constitution, the president is elected by the parliament. With the current political configuration in the Slovak parliament, however, the opposition feared that the election process would be deadlocked—resulting in a constitutional crisis—when the mandate for the current president expires next year. When the opposition parties, fairly predictably, failed to win over the ruling coalition parties to their plan, they

decided to take their case directly to the people by means of a referendum.

Although only 350,000 signatures were needed to call a referendum, the opposition parties—working in concert for a change—reportedly obtained 500,000 signatures in the space of several weeks. (The petition drive was also supported by President Michal Kovac, the Trade Union Confederation, the Catholic and Protestant churches, the Association of Slovak Towns and Villages, the "Save Culture" forum, and other non-governmental organizations.) The speed and success of the opposition's petition campaign was widely perceived not only as a sign of support for the direct election of the president, but an indicator of growing support for the opposition.

Subsequently, the President (who is mandated by the constitution to play a role in the organization of referenda) determined that the referendum questions on NATO and on the direct election of the presidency should be presented jointly. Having a single referendum would not only save a considerable amount in administrative costs, but would increase the likelihood of meeting the required 50 percent turn-out necessary for the referendum to be valid.

As the date of the referendum approached, the prospect loomed that it would result in a clear vote of support for NATO, which would deny Prime Minister Meciar political cover in event that Slovakia would be passed over for admission by NATO because of Slovakia's insufficient democratic reforms. Although the Slovak Foreign Ministry struggled to maintain the fiction that Slovakia was officially interested in accession to NATO, the acts of the ruling coalition parties consistently suggested that the Slovak Government actually opposed Slovak accession to NATO.

For example:

- The two minor government coalition parties, the Slovak National Party and the Slovak Workers' Party, are openly against Slovakia's membership in NATO; the former has argued that Slovakia should be neutral.

- The Prime Minister's party, the Movement for a Democratic Slovakia, is theoretically for NATO accession, but Prime Minister Meciar remained silent on this matter and refused to participate in the media campaign that preceded the referendum. Meanwhile, his party's

spokesman has said he (the spokesman) would vote *against* accession to NATO.

- Furthermore, the Prime Minister's party gave the TV time allotted to it to campaign on this issue to an anti-NATO party.

- President Kovac, who supports NATO accession, was denied any air time on the state-controlled TV. Since it is not permitted to have any campaign advertising on private radio or TV, the President was effectively prevented from making the case for Slovakia's accession to NATO.

In contrast, all but one of the opposition parties actively campaigned for Slovakia to join NATO.

The Referendum Goes Awry; Foreign Minister Resigns

In mid-April, the Ministry of Interior announced that it would not distribute the fourth referendum question on the direct election of the president, arguing that a decision to change the procedures for electing the president required a change in the constitution, and only the parliament had the authority to change the constitution. The opposition, in turn, argued that the

referendum was not a means to change the constitution but a vehicle to gauge the will of the people on a specific issue. By blocking the distribution of the fourth referendum question before the Constitutional Court had even heard any legal challenges to the validity of the fourth question, the Ministry of Interior pre-judged the Constitutional Court's authority to decide this matter itself and violated the rule of law.

On May 13, the Constitutional Court announced it rejected the government's petition to block the fourth question—albeit on rather narrow, procedural grounds. In spite of the court's decision, the Ministry of Interior continued to refuse to distribute the fourth question when the ballots with the other three referendum questions were distributed. On May 21, the Constitutional Court issued an additional decision (responding to further legal challenges that had been brought before the court). Chief Justice Milan Cic, speaking for the court, stated: "The referendum was announced by the president in harmony

with the constitution. The questions put in the referendum can be changed neither by the president, nor the Constitutional Court nor the Central Referendum Commission and naturally no one else." The full text of the Court's decision further stated that "[o]nce a referendum has been called, the president is bound by it, as are other state bodies, and the referendum must take place. The Constitution does not make it possible for a referendum to be canceled prior to the promulgation of its results." Nevertheless, the Ministry of Interior continued to refuse to distribute ballots regarding the direct election of the president.

Just prior to the referendum, the leaders of eight key opposition parties issued a joint appeal to voters, urging them to boycott the referendum if the fourth question was not included. The Slovak Helsinki Committee issued a similar appeal. On

May 22-23, fewer than 10 percent of the Slovak voters cast their votes and the referendum was deemed, by the Electoral Commission, invalid.

On May 26, Foreign Minister Hamzik resigned, stating "[c]ircumstances surrounding the referendum on Slovakia's NATO member-

ship and the election of the president have to the greatest possible extent narrowed the scope for me as foreign minister to pursue the foreign policy priorities of our nation."

Slovakia Criticized at OSCE Permanent Council, by EU

The Slovak Government's mishandling of the referendum has been widely rebuked by the international community. The U.S. Government, in statements in Washington and at the OSCE Permanent Council meeting in Vienna, described the government's mishandling of the referendum as a "step backward" from the otherwise positive record of free and fair elections which have been held in Slovakia since 1989 and demonstrated the government's lack of respect for the rule of law. Hans van den Broek, the European Union's Commissioner for External Relations, called the government's positions "alarming" and concluded that democracy in Slovakia was not stable.

✍ Erika Schlager

"The Constitution does not make it possible for a referendum to be canceled prior to the promulgation of its results."

— Chief Justice Milan Cic

Religion, continued from page 1

governmental authorities in the affairs of a religious community. By requiring that 100 individuals must be members before a religious organization can apply for registration, the Armenian bill clearly violates the spirit of the Helsinki agreements. The restrictions on religious news coverage are also a violation of the principle Armenia has agreed to in the Vienna Concluding Document, Section 16.11, and the Copenhagen Concluding Document, Section 9.1.

In recent months, there has been a decline in religious liberty in Uzbekistan. Last year, various mission and aid organizations had to close their offices and clinics. Several Protestant churches in Tashkent have been harassed. Uzbek officials have reportedly declared that before registration could be obtained, the religious organization had to declare that they would not engage in proselytism or the authorities threatened to confiscate their property. One group that has been targeted by the government is the indigenous Full Gospel Church of Tashkent. A young pastor from the church has been charged under the Criminal Code for leading illegal church services. Prior to his trial, he was held in a psychiatric hospital for a month and was released only after considerable effort by his church. The church has attempted to register and has been under unrelenting pressure since its application. Because its members have

been under constant surveillance by security forces, the church has been unable to meet in recent months. The government allegedly has refused to register the church because of its missionary activities. The Commission has also received reports that the Uzbek Government has confiscated a shipment of 25,000 Uzbek Bibles being sent to the Uzbek Bible Society because they were printed in the Uzbek language.

These actions of the Government of Uzbekistan violate the Helsinki Accords. Uzbekistan has committed to grant legal status to communities of believers to practice their faith, respect the right of religious communities to establish and maintain places of worship, and respect the right of individual believers to acquire sacred books in the language of their choice [see the Vienna Concluding Document, Sections 16.3, 16.4, and 16.10]. In addition, Uzbekistan has agreed to the principle in the Copenhagen Concluding Document Section 9.1 that every individual has the right to freedom of expression. This right includes the freedom to hold opinion, whether religious, political, or philosophical, and to receive and impart information without interference by governmental authorities. The Uzbek Government's restrictions on the activities of a religious group in discussing and disseminating their beliefs is a clear violation of this principle.

✉ Karen Lord

OSCE in Belarus

On May 29, OSCE Chair-in-Office and Danish Foreign Minister Niels Helveg-Petersen and Belarusian Foreign Minister Ivan Antonovich agreed to take steps toward establishing an OSCE long-term mission in Belarus, according to Helveg-Petersen, "would advise Belarusian authorities on their efforts toward full compliance with their OSCE commitments and to monitor developments in the country." The agreement followed the release of a report by an OSCE mission which visited Miensk in April that was highly critical of the status of human rights, democracy and the rule of law in Belarus. Concluding that the country was headed toward totalitarianism, the mission recommended that the OSCE establish a long-term mission in Belarus—the modalities of which have yet to be negotiated.

On June 3, however, the OSCE Parliamentary Assembly (OSCEPA) postponed indefinitely the Assembly's proposed fact-finding mission to Belarus because of an inability to agree with the Belarus Government on an appropriate program for the delegation. The OSCEPA had received a draft program on June 2 from the Belarusians that included meetings which could have been misconstrued as attempts to convey recognition to Lukashenka's loyalist post-November referendum parliament. In January, the OSCEPA had decided to maintain recognition of the Supreme Council of Belarus—the "old" parliament that was effectively disbanded by Lukashenka after the illegitimate November referendum.

✉ Orest Deychakiwsky



(l to r) Ambs. Kalnins of Latvia, Eidintas of Lithuania, Kozminski of Poland and Stoicescu of Estonia testify at initial NATO hearing

tion cannot substitute for such a process. The West would commit an injustice of historic proportions if we miss this unique opportunity to embrace those countries of the region demonstrably committed to democracy, human rights and the rule of law.”

Chairman D’Amato’s recommendation for NATO expansion came on June 18 as he announced the release of the Commission’s *Report on Human Rights and the Process of NATO Enlargement*. The report, based on hearings held by the Commission and direct testimony from the Ambassadors of candidate countries, found Estonia, Latvia, Lithuania, Poland, Hungary, the Czech Republic, Slovenia, Romania and Bulgaria in substantial compliance with their OSCE human rights commitments. Copies of the report may be obtained from

the Government Printing Office or downloaded from the Commission’s website at <http://www.house.gov/csce>.

On June 12, President Clinton said that only Poland, Hungary, and the Czech Republic should be extended invitations to join NATO at the Madrid Summit. “The Administration’s plan should be expanded to include Estonia, Latvia, Lithuania, Slovenia, and Romania,” said Chairman D’Amato, “NATO is still a military alliance, and this limited enlargement would leave the expanded alliance militarily vulnerable.”

The Hearings:

The Commission held a series of three public hearings on “Human Rights and the Process of NATO Enlargement” in anticipation of the summit of Heads of State and Governments of Member States of the North Atlantic Treaty Organization to be held in Madrid, Spain, on July 8 and 9, 1997. The hearings focused on implementation of commitments contained in the Helsinki Final Act and other documents of the Organization for Security and Cooperation in Europe (OSCE) by signatory countries invited to present testimony. The hearings were held under the Commission’s statutory mandate, contained in P.L. 94-304, “to monitor the acts of signatories which reflect compliance with or violation of the articles of the Final Act . . . with particular regard to provisions relating to Cooperation in Humanitarian Fields.” The Commission also took into account numerous references to human rights and OSCE commitments contained in NATO documents and U.S. law concerning enlargement of the Alliance (see p. 69).

The hearings provided a unique opportunity for prospective candidates for NATO membership to make statements on recent developments in their respective states, including their respect for OSCE norms and principles. Invitations were extended to ten OSCE states which have expressed a strong interest in NATO membership: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia. An official representative from each of the countries testified and responded to questions from Commissioners. Also included is a statement from the Former Yugoslav Republic of Macedonia regarding their interest in joining NATO.

The U.S. Congress was instrumental in stimulating the debate through several legislative initiatives. The



(l to r) Ambs. Geona of Romania, Vondra of the Czech Republic and Petric of Slovenia in the second NATO hearing

NATO Participation Act of 1994 (P.L. 103-447) provided a reasonable framework for addressing concerns about NATO enlargement, consistent with U.S. interests in ensuring stability in Europe. The law lists a variety of criteria, such as respect for democratic principles and human rights enshrined in the Helsinki Final Act, against which to evaluate the suitability of prospective candidates for NATO membership. The Act stipulates that participants in the PfP should be invited to become full NATO members if they... “remain committed to protecting the rights of all their citizens...” Under section 203, a program of assistance was established to provide designated emerging democracies with the tools necessary to facilitate their transition to full NATO membership.

The NATO Enlargement Facilitation Act of 1996 (P.L. 104-208) included an unqualified statement that the protection and promotion of fundamental freedoms and human rights are integral aspects of genuine security. The law also makes clear that the human rights records of emerging democracies in Central and Eastern Europe interested in joining NATO should be evaluated in light of the obligations and commitments of these countries under the U.N. Charter, the Universal Declaration of Human Rights, and the Helsinki Final Act.

A brief implementation review, prepared by Commission staff, focusing on continued human rights concerns in each of these countries, as well as an overall assessment of their compliance with OSCE commitments, is included in the report. Necessarily, this implementation review focuses on compliance problems and does not attempt to present a full picture detailing the successes of each of these countries, or placing these events in their full context. This approach is taken because compliance obligations are absolute, not contextual or comparative, and compliance problems and their evaluation are the purpose of this review. Of the countries which participated in this series of hearings, most were viewed as having made significant progress in their compliance with their OSCE obligations. While it is understood that each country will negotiate accession separately and will be considered for membership on a case-by-case basis, support for an expanded NATO does not negate the fact that each of the countries considered for the expansion has residual problems with its transition to democracy. Commission staff will continue to

monitor progress in addressing the concerns raised during the course of these hearings as each of the countries considered pursues full NATO membership.

The Commission made repeated requests for a Clinton Administration witness to present testimony on U.S. policy on the process of NATO enlargement. The lack of a timely response to these requests, together with the narrow time frame before the Madrid summit, forced the Commission to proceed without the benefit of hearing directly from the administration on this important foreign policy matter. Written materials provided by the administration are included in the report. A final section devoted to NATO policy includes the 1995 *Study on NATO Enlargement*, among other key Alliance documents.

Respect for basic human rights plays a fundamental role in advancing genuine security and stability and, as such, must be an integral aspect of the expansion process. The human rights record of prospective candidates for NATO membership deserves close scrutiny. None of the countries seeking NATO membership, including those considered to be leading contenders, is without problems. Further progress is expected in these and other OSCE states with the aim of advancing genuine peace and security in Europe through respect for human rights and fundamental freedoms.

Conclusions: Commission staff found that most of the countries which participated in these hearings were in substantial compliance with international standards relating to human rights, democracy and the rule of law, as reflected in the Helsinki Final Act and other OSCE documents. Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia are in substantial compliance, while Slovakia and Macedonia are not.

In the lead up to the Madrid summit, it is critically important that the NATO Member States construct—and prepare for agreement at the summit—a clear process for accession to NATO by prospective countries. Emerging democracies not receiving negotiation invitations from the Madrid summit must be assured that there is a transparent, fair, and objective process for them to follow leading to accession talks as soon as they meet the criteria for membership, such as those set forth in the NATO Participation Act of 1994 and the NATO Enlargement Facilitation Act of 1996. ☞ Commission Staff

NATO Enlargement: The OSCE and Human Rights Component

The following references on human rights and OSCE commitments are taken from NATO documents and U.S. law relating to NATO expansion:

The North Atlantic Treaty of 1949: “They [NATO Members] are determined to safeguard the freedom, common heritage and civilization of their peoples, **founded on the principles of democracy, individual liberty and the rule of law....**”

Partnership for Peace Framework Document of 1994: “... **Protection and promotion of fundamental freedoms and human rights, and safeguarding of freedom, justice, and peace through democracy are shared values fundamental to the Partnership...** They reaffirm their commitment to fulfill in good faith the obligations of the Charter of the United Nations and the principles of the Universal Declaration on Human Rights... They also reaffirm their commitment to the Helsinki Final Act and all subsequent CSCE documents....”

NATO Study on Enlargement of 1995: “**Prospective members will have to have demonstrated a commitment to and respect for OSCE norms and principles....**”

NATO Participation Act of 1994 (PL 103-447): Participants in the Partnership for Peace should be invited to become full NATO members if they... **remain committed to protecting the rights of all their citizens....**”

Foreign Operations Appropriations for FY’96 (PL 104-107): To be eligible to receive assistance under the NATO Participation Act of 1994, “each country must have made significant progress toward establishing... **adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act** and other declarations by the members of the Organization on Security and Cooperation in Europe....”

NATO Enlargement Facilitation Act of 1996 (PL 104-208): “**Protection and promotion of human rights is an integral aspect of genuine security, and in evaluating requests for membership in NATO, the human rights records of the emerging democracies in Central and Eastern Europe should be evaluated according to their commitments to fulfill in good faith the human rights obligations of the Charter of the United Nations, the principles of the Universal Declaration on Human Rights, and the Helsinki Final Act.**”

Commission Co-Chair Expresses Chernobyl Concerns

On June 3, Co-Chairman Rep. Christopher H. Smith (R-NJ) wrote President Clinton to urge him to make certain that the issue of Chernobyl was on the agenda at the G-7 Summit in Denver in a letter precipitated by a meeting with Ukraine’s President Kuchma in May at which Smith raised issues regarding the closure of the Chernobyl nuclear power plant and the ongoing health effects of the 1986 explosion.

Ukrainian officials, including Minister of the Environment Yuri Kostenko, have recently expressed concerns about safety standards in Ukraine’s nuclear power plants and the slow pace of promised Western support to close down the Chernobyl plant by the year 2000. Dialogue on these issues has been ongoing. In December 1995, the G-7 and Ukraine signed a Memorandum of Understanding (MOU) on the closure of Chernobyl in which the G-7 promised to mobilize financial resources from the international community to assist in the closure by the year 2000. Following a CSCE hearing on the

consequences of the disaster last year, resolutions were also introduced by Rep. Smith in the House and Commissioner Sen. Frank Lautenberg (D-NJ) in the Senate that called for continued medical relief, humanitarian assistance, and hospital development for the countries most affected by Chernobyl, and calling upon the U.S. to support the process of closing Chernobyl in an expeditious manner as envisioned by the MOU. The resolutions unanimously passed both chambers.

Mr. Smith wrote, “I recognize that the questions of how best to close down Chernobyl, and how to provide for its energy needs, are not easy. Nevertheless, the situation is critical, and Ukraine—as well as the rest of the world—simply cannot afford another nuclear disaster. The continuing legacy of Chernobyl has had a devastating impact on Ukraine, and Western assistance covers only a fraction of what Ukraine must spend to deal with the long-term consequences of this truly global disaster.”
✍ Orest Deychakiwsky

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